Supreme Court, U.S.
FILED

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IN THE 02 824 NOV 20 2002

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Supreme Court of the United States

OCTOBER TERM, 2003

CLEMENT A.ST.HILAIRE

petitioner,

vs.

THE STATE OF NEW HAMPSHIRE
REAL ESTATE COMMISSION

Respondent.

PETITION FOR A WRIT OF CERTIORARI APPEALS
THE SUPREME COURT OF APPEALS OF
THE STATE OF NEW HAMPSHIRE

PETITION FOR A WRIT OF CERTIORARI

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November 11,2002

45pp

QUESTION PRESENTED

1.)WHETHER REQUESTED APPEAL IN PROPER JURISDICTION CAUSED BY AMBIGUIOUS N.H. STATUTES, THAT STANDINGS ARE IN ORDER, OF WRIT OF CERTIORARI OF SUPREME COURT OF COLUMBIA D.C.

2.) WHETHER LITIGATION OF ST.HILAIRE V. ALAN SHERBURNE FOR AN EXCLUSIVE RIGHTS TO SELL, LISTING,ARE NOT ALIKE CONTRACT,ST.HILAIRE V. JEFF BRYAN FOR BREACH, FOR A PURCHASE AND SALE CONTRACT, DIFFERENT PARTIES.

3.) WHETHER THE APPLICATION OF THE LAW TO FACTS, WAS A "DE-NOVO"HEARING,OR WHETHER JURISDICTION IS ALLOWED WITHIN LIMITED POWERS OF THE COURT TO AMENDMENT MOTION, ,IS ALLOWED A SUMMARY JUDGMENT.

4.)WHETHER THE STATE STATUTES ON" EARNEST MONEY DEPOSIT" EXCEED THE COMMON LAW WHERE THERE ARE THREE AMBIGUIOUS STATUTES.

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CONSTITUTIONAL PROVISIONS INVOLVED

Constitutional Amendment VII .Common Law Suit in Controversy shall exceed, Otherwise re-examined in any Court.

Constitutional Amendment VIII Excessive Fines imposed unusual punishment inflicted

Constitutional Amendment XI Judicial Power Shall not be construed to extend to any suit in Law or Equity prosecuted against in *Judicial System.*

Constitutional Amendment XIV Deprive many person of Life, Libility, Property, without Due Process, or Produce Evidence, in Defense or Speech in any Jurisdiction equal protection.

JURISDICTIONAL STATEMENT

The Superior Court, Merricmack County, Justice Kathleen A. McGuire Denied the "Pro-Confesso" on April 16, 2002 0rder.
and over ruled the St.Hilaire Motion objecting of Attorney General ,Illegal Modification of three separate Motion in request for Summary Disposition,
The general application of the "Law of facts" became a "de-novo" Hearing.
August 10, 2002 St.Hilaire Appealed the decision to the Supreme Court Merricmack cc. request application of law on the facts ordered of the de-novo hearing.The Attorney General filed a Motion for Summary Deposition and it was in violation of the State Statutes he had filed the Motion on August 29,2002, nine days later, ch. 62:43 insert States "10 days" after the Appeal entry The Superior Court hearing was and should have estoppel effect of laches in time. The Justice had prejudice St.Hilaire in justice's waiver the laches at the hearing, once again St.Hilaire was not to discuse the Summary disposition of any sort.
It would be under the Justice advisary note after three recomposed Motion for Summary by the Attorney General at three different dates in time.
The Justice later granted the Summary disposition, later with time allowed filed a Motion for reconsideration the "Quasi Judicial" proceding was denied once again .

ST. Hilaire later within 30 days Appealed to the Law Court of New Hampshire The Court Ordered of a Summary Judgment Review certified on August 10, 2002 denied, St.Hilaire filed Motion Quasi-Judicial Contradiction Objection with good standings for an appeal for a Rehearing that was de-novo in the Superior Court Sept 10,2002. The Appeal was Denied with no conclusion of Law. St.Hilaire Filed a Motion for Reconsideration to the Supreme Court as Law Court under Rule 22 of N.H. and the Statutes violated with cite case of illegal issue.
The Motion for reconsideration was never answer as of Oct.28,2002.

JURISDICTION

[x] Forcases from Statre Courts: New Hampshire.

The date on which the Highest State Court decided my case was September 26, 2002. A copy of that decision at Appendix_____.

[x] A timely petition for rehearing was submitted on September 31,2002 and was **on October 23,2002**
Reconsideration is Denied
Request for StayDenied

The jurisdiction of this Court is invoked under 28 U.S. @ 1257 (a).

THE PETITIONER OPENING STATEMENT

New Hampshire Real Estate Commission
Complaintant
v.
Clement A.St.Hilaire
Respondant
Pro-se
Appellant

COMES NOW: Clement A, St.Hilaire, Broker, License, State of New Hampshire, Respondent to the Complaint,and Petitioner of The Supreme Court of United States of District of Columbia,D.C. 1st.Circuit, Appeal from The State of New Hampshire Supreme Court Docket No. 2002-0512,
Petitioner Request for Writ of Certiorari under the Court Rules Rule 33, applied to Rule 14, with proof of Certification of Service under Rule 29 (5).
with a Formal Request of an Oral Argument under Rule 28.

This case was Appealed from the Lower Court Superior Court of Merrimack County New Hampshire Docker No. 01-E-0424.

STATEMENT OF THE CASE

The Genuine matter of the issue of "Rescission, " that was in request by Jeff Bryan unconcerned beyond the essence of Time, of invalid Contract,Damages Liquidation Caused by Jeff, of the escrow Deposit.

The Breach of Default by Jeff Bryan Remolding Inc. In violation of the non performance, For His demand in request to Amended Purchase agreement from April 14, for ten day Extention,To close no later then April 24,2000, on the final day not wanting to except and carry on the conveyance. How ever the purchaser, had waivered his rights, in the lack of diligence, on the implied do performance, under New Hampshire Statutes, within the contingency of the Contract. Jeff Bryan 's "empty gesture," in his non attempts of in acquiring, of any from of permit for ingress or egress, Jeff has Relied on of false Surve Estoppel sence 1940 recorded,never provided any documents of evidence that supported his rights of "Rescession".That would convince that above bryond doubt to the commen man, The Contract was a Valid Agreement with signature of acknowledgement,

The 50 ft. right of way Easement, being a servitude over the existing ClassV Public Highway, unrestricted with out gates and Bars required by the Statutes of New Hampshire . The Public way, Deed was dedicated to the Town of Stratham New Hampshire and was well-maintained continually for the past fifteen years peroid and paved by the State needed fire truck industruially. Being "unequivocal Clear declaration " to the Public as property rights. forever barred as an existence of a private way, under the New Hampshire

Statutes, That Warranty by the Seller in Deed, that the Easement that run with the Land, as a benefit and enjoyment as facts of substance. The State RSA 231:51 gives the abutter access of entry to the right of way, to the center line of the road, The Conveyance operates as a Fee Simple, and a right of way to the center line of the Street. The Statute RSA 238:7 Implied in the Easement to such Line. For the purpose of use and enjoyment.

The Statute RSA 230:51 New Hampshire Statutes. Provides That land can not be landlocked, therefore the Title provides access to present highway Road. The purchaser was well aware of "time being of essence". and Crucial, with purchaser in continual demand of extention, in the contract dates of time and Closing dates that Jeff Bryan had request personally, of his Amendment for ten days increase to close from April 14,2000 to April 24,2000, conveyance. Bryan requests of imediate acknowledgement in document by the Seller on a Fax Machine . It was clear indication of his intent to close on April 24,2000. The Deed was prepared signed and dated by the Sellers, in preparation of a closing.

The Amendment was with no concern of Contingency,But a purchase on the"as is Basis" at that point in time,rather than taking a risk suffering the loss, of the option, Jeff was never declined the right of access, of the permit, but infact never had applied, and fell short, of showing reasonable efforts. He could not produce a receipt of an application for the permit, nor any evidence to the contrary in any sort of document to the negative.

Wherefore at the interception ,of the contract anticipated the forth coming condition, In event of a Forfeiture as a certainty a condition, and an amount, Reasonable and not disproportionate, but instead a just Conpensation for the Works, and Labors of a Broker, and should be brought back to the original position. Jeff request of a Flat "Rescission" that effect his deposit after his refusals of contract time of essence to have finalized the purchase of protection of liquidated damages performed. The Agency must take proper steps of New Hampshire RSA 331-A:13 IV (Until the ContractTransaction has been Terminated by performance or by in writing or by Order of a Court Jurisdiction Competent to provide). Jeff complaint to the State on his allegations in the abuse by St.Hilaire. Escrow of his deposit. This has jeopardized.

Constitutional Livelyhood as a License Broker. The action in the Law Court, as an Interpleader action .

"Deposit" by Lack Ability beyond the Forfeiture, "Rescission,"by Jeff's lack of performance .

Jeff Bryan being a developer and a business man, with knowledge as a Technician, and well aware of his profits that investments can make, Being Comercial venture. No valid reasons That Property Entrepreneur with experience, a profit made on 12 acrea lot 100,000 today unheard of, His lack of interest was caused by intimidation of his new abutter.Liability in preparing a deed and title, of 1,400 and demands of his deposit after his loss of interest. The damages to the broker Expense of the Sellers as a Broker concern, as owner of the agency,St.Hilaire Agency possition lack concern, for time and Cost and Labor of his works. On inception the purchaser Anticipated damages, were spelled out in the Contract in event of breach Art. 5, understood. The Broker had precured the purchaser, Remedy in the Equity rights are now identified by the causer of the action, a full broker fees of 10% of the sale now due St.Hilaire on the Amend Action in purcuring, ready willing buyer. The lack and disinterested now by the abutter, being able, for the full price of the sale. The non-Compliance caused Harm by Taking the Property off the Market for a full year. Authenticity as a Representive of the State That Sanction an innocent broker, for compliance in contract P & S. anticipated forfeiture for not carrying out the Sale justifyed.

CONSTITUTIONAL PROVISIONS INVOLVED

UNITED STATES CONSTITUTION, FOURTEENTH AMENFMENT

Due Process of the Fourteenth Amendment nor shall any State deprive any person of Life, Liberty, or property without Due Process, deneid Cross-Examination of Witness, Law of Evidence unable toPresent as Criticis Contract Language,15, Sup. CT,R. State Inflammatory inconsistency of State Statutes.

STATE OF NEW HAMPSHIRE CONSTITUTIONAL LAW

RSA 541 A:24 License Suspension, RSA 331-A:28 III Failure to allow a "de-novo"Hearing RSA 330-C.15 Where the Hearing was Adjourned, Failure to Andwer, Reconsideration or Rehearing ignored .A Pretrial suppresion hearing.

Review of the Administrative Order Beyond Rules of Court of 10 days from the date filed,ignored. Administrative Justice Part 1, Article 35, Denied of the Due Process on Abeguate Remedy of a Bias Verdict. State Evidence 15, Sup. Ct.R. "Pertinent Part" of a Review de-novo, Axiomatic beyond Reasonable Belief.

REASON WHY THIS COURT SHOULD GRANT THE WRIT

The Circumstances under which, It is reasonable For the State attorney to have priority over the Court Rules by filing 60 later after the Docket entry, was General Appearance, also violated the Ten days lashes by the Rules of Court, in filing After third Repeated Motions of Summary Judgment.

The Commissioner self appointed (1) as Chairman a violation of Statutes, (2) Smith Recused and (3) Commissioner had Died, between the Voting Time,(4) hardly a Quarum with only 2 Commissioner voting.

No prelimary Hearing,left not to discuss any part of the issues other then Earnest Money the Element of Contract, could not produce Maps, nor any Evidence or able to Cross examination ,the Witness. Yet charged with two charges and one violation Money,

Three Statutes that are Ambigiuos, in language suspended of license, as punishment, of the States failure to comprehand the Contract Ended,

April 24,2000, Their where no Option of a "Rescission" The Contract Art.5 anticipated forfeit, and Sellers behavier of Tort in violation of his hand in seal.

SUMMARY OF THE ARGUMENT

1.)WHETHER REQUESTED APPEAL IN PROPER JURISDICTION CAUSED BY AMBIGUOUS N.H. STATUTES, THAT STANDINGS ARE IN ORDER, OF WRIT OF CERTIORARI OF SUPREME COURT OF COLUMBIA D,C,

STANDINGS ch 64 § 64.28 of Administrative Proceedings page 626
Any Party to the action or proceedings before the (Agency) or any person directly affected "there-by"may seek reviewed of the Agency's decision order.
RSA 541:3 Rea 203.05 Able Producing Evidence.
MATTERS SUBJECT TO REVIEW
ch. 64 § 64:31 page 627.
The Statutes' distinction between an issue that has been "Determined and" one that has been "Covered... inThe Order"indicated a legislative intention to allow review of the consequence or an order or decision as well as of its intended effect.Rea 203.01 (b)(1
ch. 55 § 55:14 Appealate Review page 422,446,
See: Slattery v. Norwood Realty 145 N.H. 447, 765 A2d 143 (2000) Part XIV
Post-verdict Relief ch.47 § 47:13
"Examination"of Witness Honest Mistake caused by Statutory Ambiguity, The Relevant Statutes, Authorizing an Appeal. See: Donovan v. Richard County Assn, 454 U.S. at 390 391, Title 28 Section 1631.
New Hampshire Supplement for Modern Real Estate **Practice page 56 Paragraph 1**, publish by New Hampshire Real Estate. **Rea 702.01 (b).**
Default: Liquidated Damages exact amount is usually Spelled-out in Contract Damages are Agreed in Advance. Contracting Parties, Seller has Waiver his rights in Contract "one Half" for non-performance.

The State of New Hampshire Alledged Charge was Violation of Statutes under Fiduciary,was Ambiguous. RSA 331 A: 26 Paragraph XXVII

The Alledged breach of Fiduciary duty by Licensee Exhibit : (Proposed Release Unattested)

Amendment 2000 paragraph XI inserted "In writing"and" and acknowledge in writing by the owner" Therefore to have "Notice" Their letter unacknowledged in his hand of no signature does not authorize direction under Fiduciary Duty.

Alan Sherburne had Breached the Exclusive Rights to Sell Agreement was St.Hilaire Agency, in his continued behavier, of " negotiating directly" with the Purchaser Counselor Timothy Phoenix in letter form.

RSA 331- A:13 IV " Ambiguious Statues"

The Agency must take proper Steps of The New Hampshire Statutes, (Until the Contract has been terminated by performance or by in writing or by Order of a Court Jurisdiction Competent to provide).

RSA 331 -A: 13 IV Contradictory:

a.) None of the contract deposits shall be withdrawn until the contract has been Terminated by performance, by agreement in writting between all parties, or by order of a Court of Competent Jurisdiction, except as provided by paragraph VI of this Section.

RSA 331;13 IV at bar all parties took part writting did not include the Broker and concept of his interest in the RSA 331 ;13-VI Broker release of the Deposit solely on the concept of Agency Liability to others.or

(c.) (To be liable of Conversion, under this chapter, "opposed to Civil Liability".) Ambiguity.

Liquidated Damages See: C.&M. Realty Trust v. Wiedenkeller 133 N.H. 470 No. 89-226.

Clement A.St.Hilaire had Request a Review of Reconsideration, of their failure in violation of the Statutes. The Commission overlooked. or improperly acted in its findings, based upon the above representations and that a rehearing, be granted in order.

Pursuant to : RSA 541:3 N.H.
PURSUANT RSA 541: Petition for a Writ of Certiorari. See: Gene Doherty 464 A 2d 1113 (N.H. 1983) under the scope of review, (of the case at Bar) Was a de-novo hearing and the Standard in the Law as so privdes: In Appeal of Connolly 172 N.H. 678.

Adjudicator "Tainted with legal "Bias" should have disqualify himself, was it the doctrine of necessity being no threat to the public at bar. Binkley v. Hassity 83 F2d 351 (10th Cir 1936). This Violated Chapter 64 Administrative Agency Proceedings § 64.17.

The Administrative Hearing, was held during Their refusal "to acknowledge" while under the Courts ' "Lis-pending" action St.Hilaire Agency, In respecting their Statutes The Contract was continued, until the transaction ended Statutes inconsistent. Commission actual bias, in the Administrative violation of their own Statutes, Evidence 15 , Sup. CT.R. of the Contract Language,In Petitioner of Grimm, 138 N.H. at 49 635 A2d at 460 Citing Petition of Bagley 128 N.H. 275, 285, 513A 2d 331, 338,-39 91986) RSA 541-A 17,III Supp.1989)

See: Asmussen v. Commissioner of New Hampshire Dept of Safty (2000) 145 N.H. 578, 766 A2d 678. Declaratory Judgment Key 300 RSA: 541:A:30
Where the elements to a Cause of action are adequately set forth, a Pro-se Complaint will not be dismissed just because it is not Artfully Drafted, see: Melton v. Personal Commission 119 N.H. 272. (1979).

"Axiomatic "that some procedural protection are required by "Due Process Clause" not supported by Substantial Evidence. RSA 331 A 26.

The Commissioner Violated Chapter 64 § 64.11 never provided a "prehearing" of the Alleged charges. Sanctions of one displinary action,Prohibited.

2.) WHETHER LITIGATION OF ST.HILAIRE V. ALAN SHERBURNE FOR AN EXCLUSIVE RIGHTS TO SELL, ARE NOT ALIKE IN CONTRACT, ST.HILAIRE V. JEFF BRYAN FOR BREACH, FOR A PURCHASE AND SALES CONTRACT,

a.) The Litigation of St.Hilaire v. Alan Sherburne for the Breach in Contract rights, of Alan behavier in torts, The Case was dismissed in The Rockingham,Superior Court, and Alan had never appeared in Court.

b.) The First action must have been resolved ,as an issue finnally, (at Plaintiff never had his day in Court.) Parties were not the same.

"Three Basic" conditions must, then be satisfied before Collateral Estoppel, will arise:

Then issue subject to estoppel must be Idential, in each action.

a.) The Exclusive Rights to Sell Contract,was by a Breach in Contract behavier of torts.

b.) Breach of a Purchaser and sales Contract, was for his Failure

in carry out the sale, on "Empty Gesture"of an Implied Negligence of not acquiring permit Right of Way.

They must have Appeared in Court on the same Merits and the party to be Estopped in the second action or have been in Privity with some one who did so See: Duncan v. Clements 744 F 2d48, 51 (8th Cir. 1984) Daigle v. City of Portsmouth 129 N.H. 561 .

Binding Effect ch. 6 § 6.11 Adams v. Pearson (Ill.1952) Collateral Estoppel "identical" "Issue" "actually' "necessarily".

West Nutshell Series Civil Procedure 4th ed. 1996 Mary Kay Kene author. Hatch v. Dayton (1943) 130 NJ L.425, 3 3 A2d 350

Binding Effect ch. 6 § 6.11 Adams v. Pearson (Ill.1952) Collateral Estoppel "identical" "Issue" "actually' "necessarily".West Nutshell Series Civil Procedure 4th ed. 1996 Mary Kay Kene author. Hatch v. Dayton (1943) 130 NJ L.425, 3 3 A2d 350

3.) WHETHER THE APPLICATION OF THE LAW TO FACTS,WAS A "DE-NOVO"HEARING, OR WHETHER JURISDICTION IS ALLOWED WITHIN LIMITED POWERS OF THE COURT TO AMENDMENT MOTION IS ALLOWED A SUMARRY JUDGMENT.

EVIDENCE: 15 Sup Ct. R. 120 (5) ch.31§ 31.18 "Pertinent Part" Standards for Review,The Supreme Court reviews the Trial Courts Application of the Law to the facts " de-novo" See: Marston v. United States Fed.& Guar,Co. 135 N.H. 706,710, (1992) ,See: Del-Norte,Inc. v. Provender 703 A 2d 890 (1997).
(neither RSA 491.8 a Nor Jurisprudence Limits power of Courts to allow Amendment Motion for a Summary Judgment.) Aducate Remedy of Law, see: Morin v. Berkshire Mut. Ins. Co. 126 N.H. 485 (1985)

There was a de-novo and as in New is "on the record" Appeal is Available. Abegreate Remedy Controdictory to both Statutes or Rules, "Reasonable Belief" action are lawful even for intentional Torts. see: Blevens v. Town of Bow 767 A 2d 446 (2001) N.H. Supreme Court N.H. March 1, 2001 No. 97-633 Judge Key 49 (1) Whether an objective disinterested observe, fully informed of the Facts would entertain signficant doubt, that justice would be done in the case See: Tayler-Boren v. Issaac, N.H. 143 N.H. 261,268.

Writ of Certiorari is granted, and the order of the Commission is Quashed. RSA 541-B:19.

A Tribual Court is per-se disqualified due to the probability of unfairness "when (the Court) has become personally Embroiled in Criticism" from a party before (it) See: State v. Martina 135 N.H. 11, 121 (1991).Chairman Who Show existence of Bias vindicting the interest of the Court and the interest of a Party See: State v. Finnelly 123 N.H. 378, 384, (1983).

Thus attempted to coerce into Compliance in" Particular"Findings of facts shall be based,exclusively on the Evidence and on Matters officially Notice in Accordance with RSA 541 A : 33 V

Their adjourned Hearing was ludicrous of being able to produce "Evidence"latter was false never was requested by the Commission. as so stated by Justice Kathleen McGuire: RSA 282:5 E. "Ring Hollow" in light of facts it was The Administrative Commission, Whom adjourn and not the Claimant or Respondent whom terminated the hearing Process.

See: Petition of Chapman, 128 N.H. 24 509 A 2d 753 (1986)Protection of Due Process.
VSH Realty Inc. v. City of Manchester 123 N.H. 464 A2d 1111,1112, Involves contested Facts , either of these means of seeking Judicial review nescessarily implies a narrow scope of Judicial inquiry then would be involved in a de-novo hearing.

Administrative bodies are not exempt from Constitutional requirements that procedural Due Process of law must be accorded See: Appeal of Atlantic Connection,135 N.H. 510 608 A 2d 861 (1992).
Pheasant Lane Realty Trust v. Nashua 143 N.H. 140 720 A 2d 73 (1998).

4.) WHETHER THE STATE STATUTES ON EARNEST MONEY DEPOSIT EXCEED THE COMMON LAW WHERE THERE ARE THREE AMBIGUOUS STATUTES

The Chairman Slattery at the Hearing forcefully obligating of Strickly staying on the Scope of "Money".
The Recorder on May 31, 2001. page 3 of not being able to present any issue of Contract as in the Language of Consideration, as element of binding as stated by Slattery (We also said we will disregard anything that he said that was out-side of the scope of why the funds were not returned.)Not being able to present any Evidence or the Deposit Contingent The Breach ,in Bryan not Complying ,as Forfeiture of the Amendment ten extention from April 14,2000 to April 24,2000.

Which excecuted without carrying out the sale.
Earle D. Gross v. Karla Hill Maryland 149 A2d 10 Broker Key 39 Code 1957 Art. 2 S 17 Broker Key 76 Forfeited deposit ,In returning the Deposit would have waived St.Hilaire from the seller for full commission.
Section 11-738 Removing possesory actions from the cognizance of the Court.

Objective "TESTS" of what constitutes apparent Authority. See: Mechem on Agency (2d ed) 513at .726 are Realitic to Common Law. Petition of Mone 719 A 2d 626 (N.H. 1998). Prohibition Key 10 (1).

Writ of Prohibition is proper to prevent a Tribrinal possessing Judicial or "quasi-Judicial" Power for exercising Jurisdiction over matters not within its Cognizance or exceeding its Jurisdiction over matters of which it has Cognizance Recognized cause of the action See: Ossipee Auto Parts v. Ossipee Planing Bd. 134 N.H. 401,403, (1991).See: Snow v. Prescott 12 N.H. Rep. 535 Party must be treated as bindings in the agreement with consideration "Earnest Money" Bloom v. Christenson 18 Wash. 2d 137, 138 P 2d 655 Broker Key 52,76, Failed to complete the Purchase entitled broker to Full Commission. Hill v. Grosser & a Money 59 N.H. 51 can not be Paid Back, ...for whom refuses to complete the Sale. Contrary to the Real Estate Chairman, his Knowledge of what The Statutes have exercised as Legislative Law thats "inconsistent" with **The New Hampshire Real Estate Practice Statutes RSA. 11/ Real Estate Contract page "55". Earnest Money Deposit. page 56,** Remember that with a completely executed Contract and "Earnest Money" Deposit the Broker has presented to the seller a Customer who has been accepted and so has earned a Total Commission.

(at Bar the Full Amount of the Sale price.)

The presumption on the Defaulting Party Forfeits his deposit and agreed in advance **2 ed.paragraph page 56,Rules and Regulations regarding Escrow Fund** sc.) The Funds remain in Custodial or Trust Account .until the Consumation or (Termination.) St.Hilaire to be Liable for Escrow deposit Conversion..... No Conversion was actually made, nor any,payment, Therefore their were no proceeds to be Collected The Common Law, interpertation of Earnest Money Being a Binder in Contract, Therefore a form of

(a.) Consideration in Contract language held in Escrow until the Carrying out of the Sale.

(b) The Contract Language supercede a good faith effort is implied by the Forfeiture Clause becomes effective for non- performance.

(c) A Competant Judge, in question of law of a

Decision Whether Rescission of The deposit Liquidated damages caused upon the final Transaction All Parties be restored to orginal position. Rea 404. 04 Brokerage Contracts.

RSA 331-A:13 IV Pursuant : Plaintiff was obligated to release the Escrow money within 30 days of receiving notice to release from the parties.
Contradictory : to the State Statutes Key 239 Common right and Common Law.
Rea 404.04 Brokerage Contracts of Earnest Money. Information be cast a degree of Technical nicety material facts surrounding the Transaction Petition futher contends that necessary elements of the charge See: Thorn v. Florida Real Estate Commission cite Fla. 146 S.O. 2d 907.

Contract Signed by Jeff Bryan "Anticipated" in the agreement of a Forfeiture of Deposit in a failure in carrying out the sale with a valid Contract.
Weidner v. Hyland 255 N.W. 134 (1934) 51 ALR 1390 Supp. 73 ALR 926. see: Manchester Housing Authority v. Belcourt 285 A 2d 364 111 N.H. 367or To be liable for as a Conversion, more Ambiguity.Bursey v. C.F.X. Bank 145 N.H. 126, 129, Id.at 134. St.Hilaire Agency Maintaining of the Escrow of the Consideration of the Binding deposit was in the Protection of the Liability caused by Jeff Bryan of the out standing expenses of the Seller in his deed,

The Seller Alan Sherburne never personaly Made any Demands for the return of Escrow. The Real Estate Commission Relied on The Proposed Release Letter, Unattested . This Release Draft letter was prepared by Jeff Bryan Attorney R.Timothy Phoenix, Esq. and not "Prima facie evidence" Under RSA 541:13 of such Conversion The Letter at bar by whom drafted is in question a document of Fraud produced by Jeff Bryan Counsel.Earnest Money Deposit.

To abstain and taking a "conscientious"advantage of an other even though a form of Technicalities of Law Law,belief in facts that render a Transaction

Conscientious 2 Bouviers Law Dictionary (3rd Rev.) page 1359 Snyder v. Reshenk 131 Conn. 252,257, 38 A 2d 803 (1944).RSA 331 A:26 VII RSA 331 A28 B Fines, Sanctions only on one displinary action RSA 331 A 26 Prohibited Provisions of this Chapter. Appeal & Error Key 842 (2) Admin K.490.

Standards is the"Test"of their failure to have provided. Power to conduct a Hearing in accordance with RSA 541-A on the Statements intent to deny License. Abbs v. Sullaven (47 Wis.) 963 F 2d 918 . Board of Regent v. Tomanio. 446 U.S. 478.64 L. Ed.2d 440 Due Process of the Fourteenth Amendment nor shall State deprive any person of Life,Liberty, License.

Administrative Procedure grounds. See: Gerri Golz v. Maine Real Estate Commission, 634 A 2d 1288 (1993), (Parallel to bar Commission had lack of authority to) Impose sanction, of deprived professional License. see: Hart v. Terry L. Hopkins, Inc. 588 A 2d 1187 (1991) Justice Glassman J. held the Lower Court had errored.

The levey of Fines. The Good faith efforts of Standards is The "Test" of their failure to have provided. 23 FR. serv 3d 8, See;LaFrance 471 A2d at346.

Power to conduct a hearing in accordance with RSA 541-A on the Statements of intent to deny License. Board of Regent v. Tomanio. 446 U.S. 478.64 L.Ed. 2d 440 Due Process of the Fourteenth Amendment nor shall State deprive any person of Life, Liberty, or property without Due Process. See; In Appeal of Courville 10 SCR 243 (Nov. 7,1994) Clement St.Hilaire Hearing was a "Sham" RSA 541 A:21.Real Estate Commission determnation unsupported but by their own facts drawn See; Petition of Conticook Valley Paper Co. 129 N.H 52determination unsupported. Califano v. Sanders 430 U.S. 99, 51 L.Ed. 2d 192, Id. Cooper State Administrative Law 336 (1965).The Administrative Procedure Act. Requires an Administrative Agency to follow its own Rules See; Appeal of Gielen 139 N.H. 283, 288, 652 A2d 144,147, (1994) Therefore St.Hilaire was in protection of his agency Liability in not releasing the Ecrow.

deposit , where The Preparation of the Title search and Deed cost of $1,400 Dollars.

Broker would have Waiver is rights in the Return of the Contract deposit See: E D. Gross v. Kaita Hill 149 A 2d 10. See: Finley v. Kesling (1982) 105 ILL App.3d 1, 60 Ill. Dec.8 1974 (433 N.E. 2d 1112) Their positions were taken in separate Judicial or" Quasi-Judicial ".
Due Process New Hampshire Consts. PT I art 15 RSA 330 A: 14 III (b) Renovest Company v. Hodges Development No. 89-559 12, 6,1991,600 A 2d 448 N.H. Administrative Procedure Constitutional rights to be heard is fundamental"Quasi-Judicial"capacity in their own hand See: Appeal Catholic Med. Ctr. 128 N.H. 410 515 A2d 1205 (1986) Ajudicator "Tainted with Legal "Bias" must disqualify himself is the doctrine of necessit Binkley v. Hassity 83 F 2d 351 (10th Cir) (1936)

RSA 541 A 31 (v) (b) (c) (d).

Essential element as acts in an Adjudicatory Capacity. Withrow v. Larkin 421 U.S. 35,46, (1975

Jeff Bryan Purchase and Sales Contract ended on April 24, 2000, their were no Documented Contract that all parties had participated as original,no longer There is No Option,to Rescind The Contract

RESCISSION: on Contract Black Law Dictionary 6th edition,

> To abrogate to cancel a contract particularly nullifying a Contract by acts of a party to declare a Contract void in its inception and to part an end. as though it never were one.

Failure to acquire a building permit, Rescission should not be granted Bursey v. Clement 118 N.H. 412 Specific Performance permit needed Erin Food Service Inc. v. Derry Motel Inc. 131 N.H. 353,356,
Under New Hampshire Law, every Contract contains an Implied Covenant of good faith performance and fair dealing Seaward Consts. Co. v. City of Rochester,118 N.H. 128,129, 383 A2d 707,708 (1978)

Authority to the Contrary see: Conn. Martin Tire & Rubber Co. v. kelly Tire & Rubber Co. 122 A 102

99 Conn. 396 Conclusion of their Evidence 803 (4) See: New Hampshire Boring Inc. v. Aderirondack Environmental Associates Inc. 762 A 2d 1036. The Material facts in questions precluding Summary Judgment existed as to Whether little River Survey Company should be equitably estopped in defense of over 62 years of Common Law key note 11 Statutes Key note 239, Williams v. Blakely 757 P2d 186 (Idoho 1987) Survey of the property year 1940 Developer Hugh and Dow, that survey all of Hampton, Stratham, Portsmouth, Boundries Key 36, (5), For Ingress and Egress New Found Management Corp. General Partners v. sewer 34 F Supp 2d 305 Survey page 65. Yellowstone Basin Property Inc. v. Burgess 255 Mont. 341,350, 351, 843 P2d 341,347, (1992).

CONCLUSION

FOR THE REASONS STATED ABOVE, THIS COURT SHOULD GRANT THE WRIT OF CERTIORARI TO REVIEW THE DECISION OF THE NEW HAMPSHIRE STATE COURT OF APPEALS AND DECIDE THIS IMPORTANT CONSTITUTIONAL ISSUE.

Respectfully Submitted,

Clement A.St.Hilaire
Petitioner
Pro-se
P.O. Box 592
Stratham,NewHampshire
03885
(603) 320-3918

November 11, 2002

APPENDIX

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In case No. 2002-0512, Clement St.Hilaire v.N.H. Real Estate Commission, The Court on October 23, 2002, issued the following order:

Motion for rehearing or reconsideration is denied. Request for stay of real estate proceedings is denied.

Brock,C.J., and Nadeau,Delianis and Duggan,JJ., concern.

"s/ Eileen Fox,'
Clerk

Distribution:
Clerk, Merrimack County Superior Court 01-E-424.
Mr. Clement A.St.Hilaire
Wynn E. Arnold,Esquire
Hon.Kathleen McGuire
Laura Mitchleen,Supreme Court
File.

THE STATE NEW HAMPSHIRE
SUPREME COURT

IN CASE NO. 2002-0512, Clement A.St.Hilaire v. N.H. Real Estate Commission, the court on September 26, 2002, issued the following order:

Plaintiff's Motion to appear Pro-se is granted

The Court having reviewed the notice of appeal and appendix, the decision below is summarilyaffirmed in accordance with Rule 25 (1) (a) on the basis that no substantial question of law is presented by the appeal, and the Court does not disagree with the result below. State's motion for summary affirmance is, therefore, moot.

The notice of appeal and any documents that were filed in this matter were provided to each justice whose name appears below Under Supreme Court Rule 25, the supreme court may in its discretion summarily affirm the ruling of a trial court. No appeal, however,is summarily affirmed except by unimous vote of the court with at least three justice participating.

No Justice who considered this matter voted to accept this appeal. Accordingly, the court decided to summarily affirm the decision of the Trial court because the court found that this case presented no substantial question of law and the supreme court did not disagree with the result. If any Justice who considered this matter believed the appeal should have been accepted, this case would have been scheduled for briefing.

Summarily affirmed

Broick, C.J. and Nadeau, Dalianis and Duggan,JJ., Concurred,

"s/Eileen Fox"
Clerk

THE STATE OF NEW HAMPSHIRE

MERRIMACK,ss. SUPERIOR COURT

Clement A.St.Hilaire

v.

New Hampshire RealEstate Commission

No.01-E-424

Order

Pursuant to RSA 331 A;28, III, petitioner, Clement A.St.Hilaire, Appeals The October 23,2001 decision of the New Hampshire Real Estate Commission (the" Commission") to suspend his License and impose fines in connection with his failure to return $5,000.00 he held in Escrow. Before the Court is the Commission's Motion for Summary Affirmance,to which the petitioner objects. After consideration the pleadings, the Court finds and Rules as Follows.

1. The Legal Standard

"Pursuant to RSA 491:8-a" The Trial Court is obligated to grant Summary Judgment when, after considerating all the Evidence presented in the light most favorable to non-moving party is entitled to judgment as a matter of Law" Manchenton v. Auto Leasing Corp.135 N.H. 298, 300-01 (1992).

II.Background

Unless otherwise noted,the facts of this case are not disputed,. At the time of the events in question, petitioner was a license real estate broker and the broker of record for St.Hilaire Agency.

Alan Sherburne, who owner a parcel of land in North ordered That :1) the Petitioner return the $5,000.00 within thirty days : 2) the petitioner's real estate license be suspended until he returns the $5,000.00 :3) he complete a forty hours Commission accredited,

(a) Suspend,revoke or deny a licensee or the renewal of such License.
(b) Levy a fine not to exceed $2,000.00 for each offense.
(c) Require the person to complete a course or course in selected areas of Real Estate.

practice relevant to section of this chapter violated (Supp,2001) While the Commission's order may not have contained a Statutory citation, this does not invalidate its decision to impose fines and penalties on the petitioner.

3. Failure to cite Authority to conduct a Hearing

Although it is not Clear, in Paragraph 3, Petitioner seems to argue that RSA 331:A:7, VI, only gives the Commission the power to conduct hearings when denying License, and thus,the Commission did not have the authority to conduct a hearing on the complaint against him. Petitioner's argument overlooks the portion of the statutes that gives the commission the power to impose disciplinary santions if it finds that an individual has violated RSA 331-A:26" after a hearing"FSA -A:28 (supp.2001) (emphasis added).

4.Failure to have a Quorum.

In Paragraph 4, petitioner argues that the October 23,2001 decision was finalized without a quorum because it was signed by only three Members. The Commission consists of five members. RSA 331-A:5,II (Supp.2001)."A simple majority of the commission members currently serving shall constitute a quorum of the commission."RSA 331-A:5,VIII (Supp.2001)Thus,contrary to the petitioner'sargument, three members would Constitute a quorum. Four members of the Commission were present at the hearing, on May 15,2001,Commission in Delashmit, Slattery, Health, and Ikawa All those, but Four members of the Commission were present at the Commissioner Delashmit signed the final order,as he passed away in the interim. Thus,three members,a quorum,issued the final decision.

5.Paragraphs 5

Petitioner's allegations in Pharagraph 5 are largely incomprehensible. It appears, however , that he is attempting to argue that the evidence before the commission did not support its findings.

After reviewing the certified record , the Court finds that there was ample evidence from which the commission could conclude that petitioner violated RSA 331 - A : 13 , IV provides: "none of the contract deposits shall be withdrawn until the contract has been terminated by performance , by agreement in writing between all parties , or by order of competant jurisdiction ...." (Supp. 2001) . RSA 331 - A : 26 , VII prohibits a license from converting money when it has been delivered to the licensee in trust , in violation of that trust. This provision goes on to state : " Failure to return any money or contract , deed , note , mortgage , abstract or other evidence of title within 30 days after the owner is entitled to and make demand for such evidence , shall be prima facie evidence of such conversion." (supp. 2000).

Mr. Bryan and Mr. Sherburne agreed , as evidenced in written correspondence , that there was no suitable access to the property and that the deposit should be returned to Mr. Bryan , Commission's Answer and Motion for Summ. Aff. Attachment 3. (Letter dated May 31,2000) . By letter dated June 13, 2000 , Mr. Bryan's attorney informed the petitioner that the contract between Mr. Bryan and Mr. Sherburne had been rescinded , and demanded return of the $ 5,000.00 deposit Id. Attachment 3 . on June 20 , 2000, Mr. Sherburne wrote to Mr. Bryan said that he had no objection to the deposit being returned. Id. As petitioner submitted a copy of this letter to the commission , he was aware of the agreement between the parties. Cert. Rec. , Tab 3 . On September 8 , 2000 , Mr. Sherburne requested in writing that the petitioner return the money to Mr. Bryan. Commission's Answer and Mot. Summ. Aff, , Attachment 3 . More importantly , petitioner acknowledged at the hearing that the contract between Mr. Bryan and Mr. Sherburne

Pre-licensing course: and 4) he pay a $2,000.00 disciplinary fine for each offense.Id., Tab 12 at 3-4,

After the decision issued, The petitioner filed a Motion to stay and a Motion for rehearing and proceedings before the Agency.The Commission denied the motion to stay and did not expressly respond to the motion for rehearing. This appeal followed.

III. Analysis.

The commission argues that it is entitled to Judgment as a matter of law because the petitioner has not shown that the Commissions October 23,2001 decision contains errors of law. See : RSA 331 A : 28 iii, The Court agrees , Petitioner's appeal contains eight number paragraphs, each of which purport to allege an error Committed by the Commission. The Court notesat the outset that the petitioner's appeal is primarily comprised of disjointed concepts and incomplete thoughts. Having said that , the Court has reviewed the pleadings and will address each of the petitioner's arguments to the best of its ability.

1,Failure to grant Request for Rehearing

In paragraph 1, petitioner argues that under RSA 331 - A : 7 V , he was entitled to a rehearing and not afforded one. RSA 331 A :7 does not State this. Neither RSA Chapter 331 A nor New Hampshire Code of Administrative Rules Rea 205 contain any provisions regarding rehearings. In any event, the Commission granted the petitioner the opportunity to present evidence after the hearing, which the commission considered in reaching its decision. Thus , although he was not entitled to a rehearing, the Commission acted fairly because it provided the petitioner with a second opportunity to present evidence.

Failure to Cite Authority to Impose Fines or Penalties.

Paragraph 2 of the petition States : "The Real Estate Commission Order Fails to Stipulate the Precise Statutes within which Grants the Commission the Authority to impose Fines or Penalalty " Petitioner's argument overlooks RSA 331 A : 28 I , which Provides:

Was terminated See Cert, Rec., Tab 9at 41 (transcript of May 15, 2001 hearing) Petitioner does not dispute that Mr. Sherburne instructed him to return the money and that he did not return it. Rather, he argues that he was entitled to a Commission, and if he returned the deposit, he would waiver any claim to that commission. Petitioner cites no New Hampshire law that supports this conclusion. Thus, there was ample evidence to support the Commission's conclusions that petitioner violated RSA 331-A:13,IV, and RSA 331 A:26,VII.

6. Paragraphs 6and 8

Paragraphs 6and 8 are difficult understand, and the Court cannot discern what the petitioner's allegations of error are such, the Court cannot address these claims.

7. Paragraph 7

In Paragraph 7, the petitioner asserts that the Commission has no contempt power, As the Commission did not make a finding of contempt in its May 23,2001 decision, petitioner's argument is without merit.

As a final matter,to the extent that the petitioner is using this appeal as an attempt to litigate the issue of whether he is entitled to a commission, from either Mr.Sherburne or Mr.Bryan this argument is beyond the scope of this Appeal. Moreover,these issues have already been litigated.First,petitioner filed acivil action against Mr.Sherburne to attempt to recover a commission, which was dismissed on the merits. See:Clement A.St.Hilaire and St.Hilaire Agency v. Alan A.Sherburne, et al., Rochingham Superior Court DocketNo.00-C-857 (Order dated March 9, 2001 (coffey J.)Furthermore,petitioner filed a civil action against Mr.Bryan to attempt to recover a Commission, which was dismissed on the merits. See: Clement St.Hilaire v. Jeff Bryan Remodeling,Inc.,Rockingham County Superior Court Docket No.01-C-941 (Order dated February 8, 2002 (Holman, J.) Thus, he is collatrerally estopped from raising the issue of his

Entitlement to commission in this litigation. See: Tsiatsios v. Tsiatsios, 144 N.H. 438,441 (1999). (aparty to a prior action is barred under doctrine of collateral estoppel from religating any issue or fact actually litigated and determined in prior action).

IV.Conclusion:

For all of the above reasons, the Commission's motion for Summary judgment is;

Granted: Thus, the October 23, 2001 decision of the New Hampshire Real Estate Commission is **Affirmed** and the petition for appeal is **Dismissed.**

So Ordered

Dated 7/15/02 "s/Kathleen a. McGuire"

THE STATE OF NEW HAMPSHIRE
Merrimack County Superior Court
163 N. Maine Street
P,O, Box 2880
Concord,N.H. 03301-2880
603 225-5501
NOTICE OF DECISION

Clement A.St.Hilaire
P.O.Box 592
Stratham, N.H. 03885

01-E-0424 Clement A.St.Hilaire v.
N.H. Real Estate Comm.

Please be advise that on 5/14/2002 Judge McGuire made the following order relative to:

Motion To Reconsider:Denied

05/14/2002 Wit:"s/William McGraw"
William McGraw
Clerk of Court

cc.Wynn E.Arnold, Esq,

CONTRACT FOR SALE OF REAL ESTATE

February 22, 2000,

Received of Jeff Bryan Remoldeling, Inc. hereinafter called the purchaser,the sum (5,000.00) Five Thousanddollars and.00/1.00 Dollars as earnest money and in part payment on account of the purchase price of the following described Real Estate in Stratham/North Hampton County of Rockingham State of New Hampshire.

Book 2057 page 434

A certain lot of land situated in Stratham, in the county of Rockingham and State of New Hampshire and described as Woodlot in PIne Hill Section, being three (3) Three acres more or less.

Book 2036 page 464

A certain tract of woodland situated partly in North Hampton and Partly in Stratham, both in the County of Rockingham, and bounded and described as follow: Northerly land' of Austin Ellinwood: Easterly partly by land of Joshua Drake and partly by land of (Continued below).

The Total purchase price being ($100,000.00) One Hundred Thousand Dollars and.00/1.00 Dollars. Said deposit is received and held by the Broker, subject to the following conditions.

1, Clement A.St.Hilaire , shall hold said earnest money or deposit and act as Escrow agent until the transfer of title: that three days shall be given for obtaining the owner's acxceptance and, in the event of the owner's non-acceptance, this deposit shall be promply returned to the Purchaser. This Contract cannot be Transfered or assigned by the purchaser,herein.

2. That a good and sufficient deed, showing good and merchantable Title, shall be delivered to the purchaser or his nominee: and it is agreed that this transaction shall be closed and the purchaser shall pay the balance due and exercute all papers necessary for the

Completion of his purchase within thirty days from the date here of, However, should the Title prove

Defective, then the Seller shall have a reasonable time, After due notice of such defect or defects to remedy the Title, after which time, if such defect or defects are not corrected so that there is a merchantable title,then the purchaser may, at his option, withdraw said deposit and be relieved from all obligations hereunder.

3. That the property shall be conveyed by good and sufficient Warranty Deed, with rights by descent released, and shall be free and clear of all encumbrances except building and zoning restrictions and usual public utilities servicing the property.

That possession will bw given at time of closing and That the following items shall be pro-rated as of closing date March 2000 Property Taxes in the Towns of Stratham and North Hampton New Hampshire.

4, The Risk of loss or damage to said premises by fire or otherwise, until the exchange of deeds,is assumed by the Seller.

5, (That in case of the failure of the Purchaser to make either of the payments, or any part thereof,or to perform any of the covenants on his part made or entered into, this contract shall, at the option of the Seller, be terminated and the Purchaser shall forfeit said earnest money or deposit: and same shall be retained by The Seller as Liquidated damages, and the escrow agent is hereby authorized by the Purchaser to pay over to the Seller the earnest money or deposit.)

6.That time is an essential part of this agreement,and that all covenants and agreements herein contained shall extend to and be obligatory upon the heirs, executors, administrators and assigns of the respective parties.

7.(Description Continued) Harrison Dalton: Southerly by land of heirs of Julia E. Chevalier and Westerly by land of the heirs of George Dow, said tract containing nine (9) acres more or less.

Reference to be made to a Right-of-way described in Book 3265 page 0568 of the Rockingham Conuty Registry of Deeds. Also described on Plan of Home

Tech. Inc. Plan C 12285 of the Rockingham County Registry of Deeds.
8. (This Contract is conditioned on the Purchases ability to access land through Right-of-Way herein mentioned.
" Wit. by"s / TimothyL.St.Hilaire "

A copy of the Contract is to be received by All Parties and by signature: receipt of a copy is hereby Acknowledged .

I hereby agree to purchase the above described property at the and upon the terms and conditions above set forth.
Witness : "s/ Timothy L.St.Hilaire "

(other side)

Witness: " s/ Jeff Bryan I hereby accept the offer and agree to deliver the above described property at the price and upon the terms and conditions above stated I further agree to pay the broker above named, as commission for his services here-in a sum of $10,000.00 In the event said earnest money or deposit is forfeited by said purchaser,one-half therof shall go to said broker and the remainder time,provided, however,that the broker's portion shall not exceed the full amount of the commission herein specified. Signed this Feb. 25, day of 2000,
Witness "s/ Clement St.Hilaire

Witness : "s/ Alan G.Sherburne

EXTENSION

The time for the performance of the within instrument is hereby extended until April 15,2000
Witness our hands and seals this 2-29,2000
Wit :"s/ Paula A. Sheham" Wit: "s/ Alan A.Sherburne
their power vested in me as executor of Maxwell G.Sherburne estate Wit"s/Alan A.Sherburne
I. am refusing to extend this contract.which would extenuate the contract
Wit:"s/ Timothy St.Hilaire "s/Alan A.Sherburne"
4/12/2000

AMANDMENT TO THE CONTRACT

This Amendment dated on April 14,2000, at 11:00 is to Amend the Contract dated for a closing on April 14,2000.

The orginal Contract for the Land in Stratham, New Hampshire and Recorded in Book 2057 page 434 and the adjoining land in North Hampton New Hampshire Recorded in Book 2036 page 461 at Rockingham County of New Hampshire County Court House.

THe Above Conveyance is the exact owner-ship that the Late Maxwell Sherburne had in the Estate.

This Formal Request by Jeff Bryan of Stratham, New Hampshire is to set up a closing of conveyance within 10

Witness "s/Timothy L.St.Hilaire dated April 14,2000

Witness "s/Jeff Bryan "

Witness "s/ Clement A.St.Hilaire "

Witness "s/ Alan Sherburne "

Fax Mach. on Alan.

LEWIS P. BITHER INSURANCE AGENCY, INC.

INSURANCE PLUS SERVICE

Middlessex Road
TYNGSBORO MA.01879
(508)649-7301

1501 Main Street
TEWKSBURY,MA.01876
(508) 851-7223

May 4,2000

The St. Hilaire Agency
P.O. B ox 592
Stratham, NH. 03885

ATTN: Clement A.St.Hilaire
RE: Sale of Land Located in Stratham * No. Hampton

Dear Sir:

Please be advised that under the Circumstances to date in the above transaction-We are not going to issue any further extentions of the Purchase and Sale Agreement without being paid for any such tranaction.

If the purported buyer wishes to extend the agreement-there will be a fee of $ 5,000.00 for each month extended. That payment will be above and beyond the price referred to in the P&S agreement-will be non-refundable-will be payable to the Heairs of Maxwell G. Sherburne- and will be paid to me before any such agreement will be signed. Any Fraction of a month will be treated as a full month.

Very truly yours,
"s/ Alan A. Sherburne"
Alan A Sherburne
The Estate of Maxwell G.Sherburne

PROPOSED RELEASE UNATTESTED

June 7,2000

The St.Hilaire Agency
Clem and Tim St,.Hilaire
P.O. Box 592
Stratham,N.H. 03885

Re; Sherburne,et al to Jeff Bryan Remodeling,Inc.

Dear Messrs. St.Hilaire

This is to advise you that Jeff Bryan Remodeling,Inc. has rightfully rescinded the Purchase and Sale Agreement due to his inability to obtain access to the property in the manner called for in the Purchase and Sale Agreement.

I Have informed Jeff Bryan Remodeling, Inc. that return of the $5,000 deposit, which you hold in escrow, is approved. As Seller,I hereby instruct you to immediatly return the 5,000 deposit to Jeff Bryan Remodeling Inc.

Very Truly yours

(Unsigned)

Alan A.Sherburne

New Hampshire Real Estate Commission.

cc. Scott LaPointe, Esq
R. Timothy Phoenix,Esquire

A-32.

Warranty Deed

Bk 2771 p2053

Know All Men By These Presents, That SusanJ.Conway as Trustee of RENWICK REALTY TRUST: with a place of business at 142 Portsmouth Avenue, Stratham, County of Rockingham and State of New Hampshire.
For consideration paid,Grant to the Town of Stratham of Town Hall Portsmouth Avenue,Stratham County of Rockingham, and State of New Hamshire 03885

with **Warranty Covenants** The following described premises:

The property described herein shall be MARIN WAY as shown on a Plan entitled "Subdivision Plan, Stratham, N.H. for Renwick Realty Trust", recorded at Rockingham County Registry of Deeds as Plan # D-12522 as that said roadway is shown on the said plan or as shall be actually laid out and Constructed.

This conveyance is made for the purpose of establishing MARIN WAY as a PUBLIC Road within Town of Stratham, New Hampshire.

Signed this Dec,5,1988.

Witness:"s/ Joyce A. Raine "

by: Renwick Realty Trust;
" Susan J. ConwayTrustee"
Susan J.Conway trustee

State of New Hampshire
Rockingham,ss. Presonally appeared Susan J. Conway as trustee of Renwick Realty Trust known to me, or satisfactorily proven to be the person whose name subscribed to the foregoing instrument and acknowledge that she exercuted the same for the purpose therein containe.
Before me"s/ Joyce A. Raine".

BK 2771 P2054

DEED ACCEPTANCE

The undersigned, being the Selectmen of theTown of Stratham,hereby accept this Conveyance for the purpose stated herein.

In WITNESS WHEREOF, The parties have hereunto set their hand and seal on this 4, day of Dec. 1988,

TOWN OF STRATHAM
Wit:"s/Martin Wood "

Wit:"s/ George R. Broon"

Wit:"s/Terry Barner"

Selectmen

STATE OF NEW HAMPSHIRE
Rochingham,ss. Dec. 4, 1988

Personally appear the above named :
" s/ Martin Wood"
Selectmen
Iustice. "s/Terry Barner",Selectmen of the Town of Stratham, and acknowleged the foregoing instrument to be their free act and Deed and that of said Town.

Before Me:
"s/Joyce A. Raine"
Justice of the Peace.
seal.